

ANALYSIS OF ORIGINAL BILL

Author: Figueroa Analyst: Colin Stevens Bill Number: AB 1702

Related Bills: See Legislative History Telephone: 845-3036 Introduced Date: 1-26-98

Attorney: Doug Bramhall Sponsor:

SUBJECT: Employer provided Public Transit Passes Credit

SUMMARY

Under the Personal Income Tax Law (PITL) and Bank and Corporation Tax Law (B&CTL), this bill would allow a credit equal to 40% of the cost paid or incurred by an employer for providing subsidized public transit passes to an employee.

EFFECTIVE DATE

This bill would apply to taxable or income years beginning on or after January 1, 1998, and before January 1, 2003.

LEGISLATIVE HISTORY

AB 1463 (Stats. 1989, Ch. 1227), AB 29 (Stats. 1990, Ch. 30), AB 913 (95/96), AB 171 (1997).

PROGRAM HISTORY

Prior state law allowed employers a ridesharing tax credit with two components. Employers were allowed a tax credit equal to 10% to 40% of the cost of providing subsidized public transit passes to employees, depending upon whether the employer offered free or subsidized parking. The second component was a tax credit for the purchase or lease of shuttle or commuter vehicles as part of an employer-sponsored ridesharing incentive program. The credit was 20% for an employer with 200 or more employees and 30% for an employer with fewer than 200 employees.

Prior state law also provided a transit-related tax credit to employees equal to 40% of the subscription costs paid or incurred for participation in a non-employer-sponsored vanpool program.

The above credits were allowed for taxable or income years beginning on or after January 1, 1989, and before January 1, 1996.

DEPARTMENTS THAT MAY BE AFFECTED:

STATE MANDATE

GOVERNOR'S APPOINTMENT

Board Position:

S O
 SA OUA
 N NP
 NA NAR
 X PENDING

Agency Secretary Position:

S O
 SA OUA
 N NP
 NA NAR
DEFER TO _____

GOVERNOR'S OFFICE USE

Position Approved
Position Disapproved
Position Noted

Department Director

Gerald H. Goldberg

2/19/98

Agency Secretary

Date

By:

Date:

SPECIFIC FINDINGS

Federal law does not provide a tax credit for employee or employer participation in a ridesharing or vanpool program. However, to the extent that a ridesharing or vanpool program is a necessary business expense, any cost incurred by employers would be deductible.

Existing federal law allows employees certain exclusions from gross income for the value of employer-provided commuter transportation, transit passes, or qualified parking. Employees generally cannot deduct their regular costs of commuting to and from their place of business under either federal or state law.

Current state law allows an employee to exclude from gross income compensation or the fair market value of any benefit (except salary or wages) received from an employer for participation in any ridesharing program in California including the value of a monthly transit pass for use by the employee or his or her dependents.

Under the PITL and B&CTL, **this bill** would allow a credit equal to 40% of the cost paid or incurred by an employer for providing subsidized public transit passes to an employee.

For purposes of **this bill**:

- "employer" would mean a taxpayer, except a governmental agency, who employs an employee and for whom services are performed by that employee; and
- "employee" would mean an individual employed by the taxpayer who performs at least 10 hours per week of service for the taxpayer for remuneration.

The credit allowed by **this bill** would be in lieu of any deduction to which the taxpayer would otherwise be entitled for costs on which the credit is based.

In the case where the credit allowed exceeds the amount of tax, the credit could be carried forward until exhausted.

Since **this bill** does not specify otherwise, the general rules in income tax law regarding the division of credits between taxpayers who share in the costs would apply. This credit would not reduce regular tax below tentative minimum tax for alternative minimum tax purposes.

Policy Consideration

This bill would allow employers who provide subsidized public transit passes to employees who work or live outside of California to qualify for the credit.

Implementation Considerations

The department could implement this bill in its annual update.

In recent credits, the Legislature has limited the number of years unused credit may be carried forward. Most credits are exhausted in eight years. This bill provides an unlimited carryover of unused credit.

Technical Consideration

This bill would allow the credit against "the amount of" net tax or tax. Language describing "the amount of" is unnecessary. Amendments 1 and 2 would eliminate this language to conform to standard credit language.

FISCAL IMPACT

Departmental Costs

This bill would not significantly impact the department's costs.

Tax Revenue Estimate

This bill is estimated to impact PIT and B&CT revenue as shown in the following table:

Fiscal Year Cash Flow Effective 1/1/98 Enactment Assumed After June 30, 1998 in Millions			
1998-9	1999-0	2000-01	2001-02
(\$2)	(\$2)	(\$2)	(\$2)

This analysis does not consider the possible changes in employment, personal income, or gross state product that could result from this measure.

Tax Revenue Discussion

The revenue impact of this bill would be determined by the number of employers providing subsidized transit passes and the average amount of credit applied.

This estimate was developed in the following steps. First, the above estimates are based on state data for the previous transit pass tax credit taken at an average of a 30% credit amount. Second, the previous impact was increased to reflect the 40% credit allowed in the bill. Third, the total credit amount was grown to reflect 5% annual growth rate and cost changes in transit passes.

BOARD POSITION

Pending.

Analyst Colin Stevens
Telephone # 845-3036
Attorney Doug Bramhall

FRANCHISE TAX BOARD'S
PROPOSED AMENDMENTS TO AB 1702
As Introduced January 26, 1998

AMENDMENT 1

On page 2, line 1, strike "the amount of"

AMENDMENT 2

On page 2, line 26, strike "the amount of"